



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,565	10/19/2001	Yuusuke Nonomura	871A 3068	7124

7590

03/04/2003

KODA & ANDROLIA
Suite 3850
2029 Century Park East
Los Angeles, CA 90067-3024

EXAMINER

ROSE, SHEP K

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 03/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10 038565

Applicant(s)

YUU SUKGA

Examiner

SIMP ROSE

Group Art Unit

1614

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on JAN 3 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 111; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 10, 12, 14, 16, 17 is/are pending in the application.
- Of the above claim(s) 2, 4, 8, 10, 12, 14, 16, 17 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1, 10, 12, 14, 16, 17 (2, 4, 8, 10, 12, 14, 16, 17) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Other _____

Office Action Summary

The reply filed on January 3, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): line 1 of each amended claims 8, 9, and 10 improperly recites "anyone of claim 1 through 5" instead of "anyone of claims 1, 2, 3, 4 or 5--". See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

The disclosure is objected to under 37 CFR 1.71, as being so incomprehensible as to preclude a reasonable search of the prior art by the examiner. For example, the following items are not understood: there is no page one, and there is no page 3..

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

A shortened statutory period for reply to this action is set to expire ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this letter.

The July 3, 2002 office action states that ^{isn't} there ~~is~~ in any page one (the objected to specification ^{is} starts on page 2), nor is there any separate paragraph entitled "Brief Description of the Drawings".

The responsive remarks state that applicant's submitted a 16-page specification, with an unnumbered first page, but this unnumbered first page is not of record.

Art Unit: 1614

Applicant's responsive remarks refer to page 3 for "Brief Description of the Drawings", but there is no page 3 of record. (The Draftsman no longer makes correction to the Drawings). It wasn't previously noted that there is no page 3.

"The MPEP at 608.01 (p)(q) permits an attorney of record to introduce pages from a certified translation of the priority document, in an attorney's declaration, to avoid a holding of new matter.

These claims are composition claims comprising an anti-fungal agent and an antibiotic, i.e. oral azithromycin and non-oral local topical amphotericin B. (First Example, page 4), the constructively elected most comprehensive species. Other species (non-elected) are set out on pages 5 to 13. How can oral azithromycin and non-oral local, topical amphotericin B be in the same (oral treatment/care agent) composition? Clarification is requested: These composition claims, generic to the above-noted First Example, page 4 are stated on the bottom two paragraphs, on page 4, for the treatment and cure of chronic periodontosis, azithromycin, orally and amphotericin B inside the mouth, (but not orally ingested). Is this correct? clarification is requested. Claim 2, 4, 8 to 10, 12, 14, 16 and 17 will be withdrawn, Rule 142 (B), as constructively non-elected subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609. The examiner can normally be reached on Monday, Tuesday and Thursday from 7:30 AM to 6 PM.

Art Unit: 1614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



SHEP K. ROSE
PRIMARY EXAMINER

5

February 27, 2003